

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Request for Declaratory Ruling on Partial-Band)
Licensing of Earth Stations in the Fixed Satellite)
Service that Share Terrestrial Spectrum)
)
Petition for Rule Making to Set Loading Standards)
For Earth Stations in the Fixed Service)

RM No. 9649

RECEIVED
JUL 26 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: the Commission

REPLY AND OPPOSITION OF MCI WORLDCOM, INC.

I. INTRODUCTION

MCI WorldCom, Inc. (MCI WorldCom),¹ pursuant to Sections 1.415 and 1.419 of the rules and regulations of the Federal Communications Commission (FCC), hereby submits its Reply and Opposition in response to the Fixed Wireless Communications Coalition's (FWCC's) Request for Declaratory Ruling and Petition for Rulemaking in the above-referenced proceeding² seeking to amend the FCC's licensing, frequency assignment and coordination regime for fixed satellite service operators (FSS) in bands shared with point-to-point fixed services (FS).

MCI WorldCom strongly opposes the FWCC Petition and supports the oppositions filed by the Satellite Industry Association (SIA), GE American Communications, Inc. (GE), Sprint Corporation (Sprint), the Satellite Communications Division of the Telecommunications Industry Association (TIA), Home Box Office (HBO), Iridium, L.L.C. (Iridium), Skybridge,

¹ MCI WorldCom, a global provider of telecommunications services, operates several large gateway earth stations and numerous VSAT stations in the C Band.

No. of Copies rec'd 014
List A B C D E

L.L.C. (Skybridge), Corporate Satellite Communications, Inc. (CSC), Williams Communications, Inc. (Williams), and McKibben Communications (McKibben) to dismiss the FWCC Petition and maintain the existing policies for earth station licensing and coordination. As demonstrated by the total absence of support for the FWCC petition, there is no public interest rationale for adoption of the proposal. In fact, the adoption of the FWCC proposal will disrupt the provision of international telecommunications and will serve only to create burdensome regulation on the FSS. The existing differences in the regulations governing the diversity and coordination of FS and the FSS stations are not an indication of favorable treatment for earth station licensees but merely a recognition of the distinct nature of the technologies and operations of the two services.

II. DISCUSSION

A. The Proposal Would Jeopardize the Provision of International Service by U.S. Carriers

MCI WorldCom strongly supports Sprint's view that the FWCC proposal will disrupt the provision of international telecommunications services by U.S. carriers using satellite facilities.³ For example, if the FCC, as requested, institutes limits on frequency authorizations to the earth stations, these operations will be restricted from accessing necessary space segment. Consequently, circuits for services between the United States and a foreign country assigned by a space segment provider (like INTELSAT) may not be accessible by a U.S. carrier because the earth station authorization does not extend to the particular frequency. Adoption of this policy would effectively prevent U.S. carriers from obtaining the circuits required to provide

² *Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed Satellite Service that Share Terrestrial Spectrum, Petition for Rule Making to Set Loading Standards For Earth Stations in the Fixed Service*, RM-9649 (filed May 5, 1999).

international service. Instead, the public interest requires that the FCC retain its full band licensing regime for earth stations. This regime is necessitated by the need of U.S. carriers to coordinate globally for circuits and accept frequency assignments by space segment providers. It also allows earth station operators to adjust to shifts in demand for services and to use capacity for restoration of service in cases of outages.⁴ These additional functions of satellite services would not be served if earth station operations are treated the same as FS stations. In regards to FS terrestrial stations, there is no need for full band licensing because this service is not subject to the same outages as the FSS and there is rarely any increase in demand that requires the use of additional spectrum.

B. Critical Differences in Operation and Utilization of Spectrum by the FSS and FS Mandate Different Regulatory Treatment

As SIA notes, the unique operational, technical and economic characteristics of earth station operations require different regulatory treatment than that of stations operating in the FS.⁵ The technical and economic realities of satellite operations have set the ground for the FCC's existing earth station licensing rules. Multi-billion dollar investments in space segment and in ground segment facilities require regulatory flexibility, in order for the spectrum to be used efficiently.⁶ If the FCC adopted the FWCC proposal on loading requirements and frequency use limitations, the use of radio spectrum for FSS and FS would not be maximized as FWCC argues. Instead, the adoption of such proposal would render satellite capacity unusable at certain earth stations.

³ See Sprint Communications Opposition at 2 (filed July 12, 1999).

⁴ See GE American Communications Opposition at 10 (filed July 12, 1999) (GE Opposition).

⁵ See Satellite Industry Association Opposition at 3 (SIA Opposition); See also McKibben Communications Opposition at 2 (stressing that flexibility is a fundamental requirement for a viable satellite operation).

⁶ MCIW has invested millions of dollars in displacing its gateway stations; See also GE Opposition at 5 (stating that satellite users have a very strong incentive to use bandwidth efficiently).

Further, in contrast with the rules governing earth station operations, the regulations currently imposed on FS stations are appropriate because of the operational characteristics of that service.⁷ For example, for a point-to-point operation, the FCC's bandwidth limitations are reasonable and allow full operation of the station. In addition, the FCC has allocated a substantial amount of unshared bandwidth to the FS. Similarly, the sharing arrangements between satellite operators and terrestrial operators have been successfully implemented and do not disadvantage either FS operators or FSS operations. As TIA indicated, the expansive growth of wireless and space-based telecommunications services is due, at least in part, to the ability of the FSS and the FS to efficiently share spectrum.⁸

Contrary to FWCC's bald assertions, satellite operators and FS operators are on a level playing field with regard to coordination. Although FSS earth station operators are permitted to coordinate with FS operators every time a subsequent application for an FS use is filed, this requirement only authorizes the earth station operators to investigate new interference concerns and whether to refrain from waving their interference rights. The FWCC proposal will deny earth station operators the opportunity to review subsequent FS station applications for interference purposes and will compel them to accept harmful interference if they have waived their rights in an earlier coordination. If such a situation is created, it will encourage earth station operators, who are first to receive authority to operate at a specific frequency and location, to refuse to grant any initial waivers, even where interference is insignificant, in order to protect against the forced

⁷ See GE Opposition, at 7.

⁸ See Satellite Communications Division of the Telecommunications Industry Association Opposition, at 2 (filed July 12, 1999) (TIA Opposition).

acceptance of harmful interference by future FS stations.⁹ The FCC's present rules do not encourage such arbitrary behavior, but instead promote cooperation in the coordination process.¹⁰

C. The New Rules Will Be Burdensome For Earth Station Operators And The FCC

The FCC has recently recognized that the FSS has been overregulated¹¹ and the adoption of the petition would frustrate the FCC's recent efforts to simplify and streamline earth station authorizations.¹² For example, under the FWCC proposal, earth station licensees would have to file for modifications of their authorizations everytime they sought to use additional frequencies beyond the authorized bandwidth. As a result, the FCC would be subject to the burdensome requirement of acting on every modification of each earth station authorization. Institution of such a process would be time consuming and would delay the ability of earth stations operators to use the needed bandwidth capacity on a timely basis.¹³ In addition, such an approach would directly contravene the FCC's goals to increase efficiency, reduce unnecessary paperwork and eliminate cumbersome and outdated regulations.¹⁴ Additional costs would also be accrued from the coordination analysis required every time an authorization modification for use of additional frequencies is filled. Such costs would increase the cost of satellite communications and may stagger its development.¹⁵

⁹ See Williams Communications Opposition, at 3 (filed July 12, 1999) (Williams Opposition), Skybridge Opposition, at 5 (filed July 12, 1999) and HBO Opposition, at 2 (filed July 12, 1999).

¹⁰ See Williams Opposition, at 3.

¹¹ See *Public Notice*, Commission Launches Earth Station Streamlining Initiative, DA 99-1259 (rel. Jun. 25, 1999); See also *Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, Report and Order*, 11 FCC Rcd. 21581 (1996) (Streamlining Order).

¹² See *id.*

¹³ See GE Opposition, at 11.

¹⁴ See *Streamlining Order*, 11 FCC Rcd. at 21581, para.1

¹⁵ See GE Opposition, at 11.

III. CONCLUSION

Based on the foregoing, MCI WorldCom strongly urges the FCC to deny the FWCC Petition. Retention of the current rules governing the licensing, frequency assignment and coordination regime governing shared frequency bands between FSS earth stations and FS stations will best serve the public interest.

Respectfully submitted,

MCI WorldCom, Inc.

By: 

Robert S. Koppel
Jennifer A. Manner
MCI WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036
(202) 736-6051 (phone)
(202) 736- 6083 (fax)

July 26, 1999

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Opposition of MCI WorldCom, Inc. in RM-9649 was served by hand delivery (indicated by *) or U.S. First Class mail, this 26th day of July, 1999 on:



Aspasia Paroutsas

Donald Abelson, Chief*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Roderick K. Porter, Deputy Chief*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Thomas S. Tycz, Chief*
Satellite & Radiocommunication Division,
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Julius Knapp, Chief*
Policy & Rules Division
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Geraldine Matise, Deputy Chief*
Policy & Rules Division
Office of Engineering & Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

International Transcription Service*
1231 20th Street, N.W.
Washington, DC 20036

Jack Keating, President
Assoc. of Public-Safety Communications
Officials International, Inc.
c/o 1666 K Street, N.W. #1100
Washington, DC 20006

Patricia Mahoney
Clayton Mowry
The Satellite Industry Association
225 Reinekers Kane, Suite 600
Alexandria, VA 22314

Dr. Thomas Brackey
Dan Bart
Gerald Rosenblatt
Satellite Communications Division
Telecommunications Industry Association
2500 Wilson Blvd., Suite 300
Arlington, VA 22201

Philip V. Otero
David J. Lidstone
GE American Communications, Inc.
Four Research Way
Princeton, NJ 08540

Peter A. Rohrabach
Karis A. Hastings
Yaron Dori
Hogan & Hartson L.L.P.
Attorneys for GE American Communications, Inc.
555 Thirteenth Street, N.W.
Washington, DC 20004

W. Mark McKibben
McKibben Communications
20640 Bahama Street
Chatsworth, CA 91311

Benjamin J. Griffin
A. Sheba Chacko
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
Attorneys for Williams Communications, Inc
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, DC 20004

Phillip L. Spector
Jeffrey H. Olson
Diane C. Gaylor
Paul, Weiss, Rifkind, Wharton & Garrison
Attorneys for Skybridge Communications, Inc.
1615 L Street, N.W., Suite 1300
Washington, DC 20036

Patricia Aileen Mahoney
Iridium LLC
1575 Eye Street, N.W.
Washington, DC 20005

Benjamin Griffin
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
Attorney for Home Box Office,
701 Pennsylvania Avenue, N.W. Suite 900
Washington, DC 20004

Leon M. Kestenbaum
Jay C. Keithley
Marybeth M. Banks
Sprint Corporation
1850 M Street, N.W., 11th Floor
Washington, DC 20036

Robert A. Mansbach
COMSAT Corporation
6560 Rock Spring Drive
Bethesda, MD 20817